

1 M. Belfonti

2 before the Petra loan was repaid in full?

3 A. I don't know.

4 Q. Who would know?

5 A. I'd have to understand the documents  
6 and get some opinion on it.

7 Q. The documents being Exhibits 1 and 2?

8 A. No.

9 Q. What documents are you referring to?

10 A. The loan documents.

11 Q. Take a look at Exhibits 1 and 2.

12 Just humor me and take them out of the pile and  
13 look at them?

14 A. One and two?

15 Q. Yes.

16 Are those the documents you are  
17 referring to, Mr. Belfonti?

18 A. Yes.

19 Q. So you need to gain an understanding  
20 of those documents; right?

21 A. Yes.

22 Q. And ask the opinions of your lawyers?

23 A. Yes.

24 Q. Let's go back to the alleged \$4.8  
25 million BCP loan.

1 M. Belfonti

2 At the time that that loan was made,  
3 was it your understanding that BCP could demand  
4 repayment before the Wachovia loan was repaid in  
5 full?

6 A. I'm not sure.

7 Q. What would you need to be able to  
8 answer that question?

9 A. I'd have to check with my counsel.

10 Q. And get their take on Exhibits 1 and  
11 2?

12 A. Yes.

13 Q. Just for the sake of completeness.

14 At the time that the alleged \$4.8  
15 million BCP loan was made, did you have an  
16 understanding as to whether BCP could demand  
17 repayment of that loan before the Petra loan was  
18 repaid in full?

19 A. I don't know.

20 Q. You need to get the views of your  
21 counsel for that?

22 A. I would.

23 Q. With respect to the alleged \$500,000  
24 Belfonti Holdings loan, at the time that that  
25 loan was made, did you have an understanding as

1 M. Belfonti  
2 to whether Belfonti Holdings could demand  
3 repayment before the Wachovia loan was paid in  
4 full?

5 . A. I believe, yes, I could.

6 Q. Why is that, sir?

10 A. By "paid in full," what do you mean?

11 Q. I mean all of the principal interests  
12 and other amounts owed pursuant to the loan  
13 agreement, Exhibit 1.

14 A. Yeah, these are -- yes.

15 Q. Yes what?

16                           A.        Yes, I believe we could demand on the  
17                            loans.

18 Q. Let me stick to the particular loan.

19 With respect to the alleged --

20 there's too many loans. Let's just back up.

With respect to the alleged \$500,000  
Belfonti Holdings loan, the second from the top  
on your chart there, Exhibit 6, at the time that  
that loan was made, did you understand that  
Belfonti Holdings could demand repayment, prior

1 M. Belfonti

2 to the time that the Wachovia loan was repaid in  
3 full?

4 A. I, I'm really not sure.

5 Q. You need to consult with your lawyers  
6 about that?

7 A. Yes.

8 Q. At the time that the alleged \$500,000  
9 Belfonti Holdings loan was made, did you have an  
10 understanding as to whether Belfonti Holdings  
11 could demand repayment before the Petra loan was  
12 repaid in full?

13 A. I'm not sure.

14 Q. You need to get advice from your  
15 lawyers on that?

16 A. Yes.

17 Q. With respect to the alleged \$393,000  
18 BCP loan, at the time it was made, did you have  
19 an understanding as to whether BCP could demand  
20 a repayment before the Wachovia loan was repaid  
21 in full?

22 A. I'm not sure.

23 Q. You need to consult with your lawyers  
24 on that?

25 A. Yes.

1 M. Belfonti

2 Q. With respect to the \$393,000 Belfonti  
3 capital -- I'm sorry, the alleged \$393,000 BCP  
4 loan, at the time it was made, did you have an  
5 understanding as to whether BCP could demand  
6 repayment before the Petra loan was repaid in  
7 full?

8 A. I'm not sure.

9                   Q.     You'd have to consult with your  
10                   counsel?

11 A. Yes.

12                   Q.     With respect to the alleged \$1.3  
13                   million MCR loan, at the time that was made, did  
14                   you have an understanding as to whether MCR  
15                   could demand repayment before the Wachovia loan  
16                   was repaid in full?

17 A. I'd like to check with counsel.

18 Q. You would need to consult with  
19 counsel in order to answer that question?

20 A. Yes.

21                   Q.     With respect to the alleged \$1.3  
22                   million MCR loan, at the time it was made, did  
23                   you have an understanding as to whether MCR  
24                   could demand repayment prior to the Petra loan  
25                   being paid in full?

1 M. Belfonti

2 A. I'd like to check with counsel on  
3 that.

4 Q. You need to consult with counsel in  
5 order to answer that question?

6 A. Yes.

7 Q. Going back to the CEB loan, was -- I,  
8 may have asked this, and if I did, I apologize.

9 Was any security given for that loan?

10 MR. MERVIS: I'm sorry, withdrawn.

11 Q. With respect to the CEB loan, the  
12 alleged CEB loan, was any security given by AHE  
13 for that alleged loan?

14 A. No.

15 Q. Now, Mr. Belfonti, were the proceeds  
16 of the alleged CEB loan used?

17 A. To pay the January '07 mortgage.

18 Q. To Wachovia?

19 A. Yes.

20 Q. So that, again, that was the payment  
21 that was combined with the \$1.3 million from  
22 MCR?

23 A. That is correct.

24 Q. From what source did CEB expect to be  
25 repaid?

1 M. Belfonti

2 A. From AHE.

3 Q. No, I'm sorry. Where did CEB expect  
4 AHE to be able to get the funds from?

5 A. Through a capital event.

6 Q. Any other source?

7 A. Cash flow of the property.

8 Q. Did AHE attempt to obtain this  
9 roughly \$550,00 from any other source?

10 A. Yes.

11 Q. What source?

12 A. We had been having a dialogue with  
13 Starwood Capital about lending us money since  
14 early December, even before the \$499,000 loan.

15 And although they did say they would  
16 consider lending it, they said that the rate  
17 would be twice as high as what Petra was  
18 charging. So 80 percent. So I did go and try  
19 to talk to them.

20 Q. So just in a nutshell, you tried to  
21 obtain some financing from Starwood Capital --

22 A. For every one of those loans, but  
23 once they said no on the first one, and we -- I  
24 made some other phone calls, as well.

25 Q. Mr. Belfonti, let's be clear on

1 M. Belfonti

2 something.

3 I think you just said that you sought  
4 financing from Starwood Capital for every one of  
5 these loans; is that what you just said?

6 A. No, after the first one; okay. After  
7 the first one for a second loan of 499,950.

8 Q. Right.

9 A. And after hearing the rate and making  
10 another call or two to some other lenders, it  
11 wasn't evident that I was going to get the money  
12 on any rate that was palatable. So I thought it  
13 prudent to put up our own money.

14 Q. So Starwood indicated that it was  
15 willing to provide AHE with a loan, but it was  
16 going to be at an 80 percent interest rate or  
17 something like that?

18 A. I think that's the word they used.  
19 They said twice as bad as what Petra is paying  
20 you, so --

21 Q. Approximately 80 percent, you  
22 understood it to be approximately 80 percent  
23 interest charge?

24 A. Very onerous terms.

25 Q. You claim that AHE sought financing

1 M. Belfonti

2 from other sources, as well; is that right?

3 A. Yes.

4 Q. But you were unsuccessful?

5 A. Correct.

6 Q. In other words, nobody other than  
7 Starwood was willing to lend money to AHE at  
8 this time?

9 A. I could have maybe gone to another  
10 lender and pledged additional collateral and,  
11 you know, done a whole bunch of things to maybe  
12 get some other money, but the terms again would  
13 have been very onerous.

14 Q. Pledged what collateral?

15 A. Additional collateral.

16 Q. What do you mean by "additional  
17 collateral"?

18 A. Other assets that my company owns or  
19 these other entities own.

20 Q. In other words, you could have gone  
21 to a lender and pledged property owned by other  
22 companies that you own and control; correct?

23 A. Maybe.

24 Q. Maybe. You are not talking about  
25 pledging the hotel, for example?

1 M. Belfonti

2 A. No.

3 Q. That was already pledged; right?

4 A. Correct.

5 Q. Did you try do that?

6 Did you approach any lender and offer  
7 to put up as collateral, assets owned by  
8 companies other than AHE?

9 A. Terms would have been too onerous,  
10 but I did investigate.

11 Q. Your investigation proved  
12 unsuccessful?

13 A. Correct.

14 Q. Is there any writing signed by a  
15 representative of AHE that memorializes the  
16 alleged CEB loan?

17 A. No.

18 Q. Is there any writing by any  
19 representative of CEB that memorializes the  
20 alleged CEB loan?

21 A. No.

22 Q. Has CEB ever made any loans, other  
23 than this alleged loan to AHE?

24 A. I'm not sure.

25 Q. Was CEB represented by counsel in

1 M. Belfonti

2 connection with the making of the CEB loan?

3 A. No.

4 Q. Was AHE represented by counsel in  
5 connection with the making of the CEB loan?

6 A. No.

7 Q. Who, apart from yourself,  
8 Mr. Belfonti, was aware that CEB had made a loan  
9 to AHE?

10 A. Victoria Carpenter.

11 Q. How did she know that?

12 A. She posted it in the ledger.

13 Q. By the way, with respect to all the  
14 alleged loans that we have been discussing  
15 today, and I think for each and every one of  
16 them, you said that Ms. Carpenter posted them in  
17 a corporate ledger as a loan; correct?

18 A. That's right.

19 Q. Who instructed her to do that?

20 A. I did.

21 Q. Anybody else on the CEB side of this  
22 alleged loan, aware that CEB had made a loan to  
23 AHE?

24 A. My mother was aware of it, I believe.

25 Q. Who told her?

1 M. Belfonti

2 A. I did.

3 Q. Who at AHE made the decision to  
4 accept the alleged \$1.2 million MCR loan?

5 A. I did.

6 Q. Was there any negotiation concerning  
7 the terms of the alleged \$1.2 million MCR loan?

8 A. No.

9 Q. Was there a payment schedule for the  
10 alleged \$1.2 million MCR loan?

11 A. No.

12 Q. Did, at the time that you, on behalf  
13 of AHE, decided to accept the alleged \$1.2  
14 million MCR loan, did you obligate AHE to pay  
15 interest on that loan?

16 A. I, as I had said in an earlier  
17 statement, there was an implied interest that we  
18 pay vis-a-vis our intercompany loans.

19 So AHE would have been obligated to  
20 pay some interest rate.

21 Q. Twelve percent, according to you;  
22 right?

23 A. Probably not. Probably more of a  
24 market rent because of the international nature  
25 of the transaction.

1 M. Belfonti

2 Q. I'm sorry, you said market -- what  
3 did you say?

4 A. A market rate.

5 Q. Rate?

6 A. A market rate. I'm sorry, yes. I  
7 believe that in Aruba is 8 or 9 percent.  
8 Something like that.

9 Q. But at the time, you didn't have that  
10 notion in your head; did you?

11 A. It wasn't my intent to earn interest.  
12 It was my intent to get the money back.

13 Q. When you just gave that testimony  
14 about an implied obligation to pay interest and  
15 again, you used the term "we," you really mean  
16 I --

17 A. I do.

18 Q. -- Michael Belfonti?

19 A. Yes, I keep saying we. And every  
20 time I say we, I think we should -- it means I.

21 Q. Was there a maturity or due date for  
22 the alleged \$1.2 million MCR loan?

23 A. No, there was not.

24 Q. Did AHE provide any security to MCR  
25 for the alleged \$1.2 million MCR loan?

1 M. Belfonti

2 A. No.

3 Q. Did MCR place any restrictions on  
4 AHE's ability to use the proceeds of the alleged  
5 \$1.2 million MCR loan?

6 A. No.

7 Q. From what source or sources did MCR  
8 anticipate receiving repayment of the alleged  
9 \$1.2 million MCR loan?

10 A. From a capital event, such as a  
11 refinance a sale or cash flow from the property.

12 Q. Did AHE attempt to secure this  
13 approximately \$1.2 million from any other  
14 source?

15 A. Not after we were rejected in earlier  
16 transactions.

17 Q. By the earlier transactions, you are  
18 referring to your effort to obtain a loan from  
19 Starwood Capital; right?

20 A. That is correct.

21 Q. The one where they wanted 80 percent  
22 interest?

23 A. Thereabouts.

24 Q. Your efforts to investigate other  
25 potential lending sources which failed; correct?

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1 M. Belfonti

2 MR. MERVIS: Mark this, please.

3 (Belfonti Exhibit 11, a document,

4 marked for identification, as of this

5 date.)

6 Q. Mr. Belfonti, you've been handed what  
7 we have had marked for identification as Exhibit  
8 11.

9 Take as much time as you need, but my  
10 first question to you, sir, is if you recognize  
11 the document?

12 A. I do.

13 Q. When was the first time you saw this?

14 A. I would guess sometime in January of  
15 2007.

16 Q. Who showed it to you?

17 A. I don't know if I ever saw this. I  
18 knew about the transaction. It was associated  
19 with this, but I don't know if I ever saw the  
20 document itself or the letter.

21 Q. Tell me what your understanding of  
22 the transaction associated with Exhibit 11 is?

23 A. My mom and dad borrowed \$550,000 from  
24 my mom's trust.

25 Q. They put up their house as collateral

1 M. Belfonti

2 for that loan?

3 A. That is correct.

4 Q. Then they gave that loan, they gave  
5 the proceeds of that loan to you; right?

6 A. No, they gave it to Dana Friedman.

7 Q. Right, they gave it to Dana Friedman,  
8 and then you instructed Dana Friedman to send  
9 that money to Wachovia Bank; right?

### 10 A. With the additional 1.3.

11                   Q.     So that you could make the mortgage  
12                   payment; right?

13                   A.        So that AHE could make the mortgage  
14                   payment.

15 Q. So that you could continue to own  
16 AHE; correct?

17 A. That is correct.

18 Q. Just go to the second page of Exhibit  
19 11?

20 There's an asterisk about halfway  
21 down the page.

22 Take a moment to read that to  
23 yourself and let me know when you've read it?

24                   A.        (The witness complies with request.)  
25        Yes, I read it.

1 M. Belfonti

2 have marked as Exhibit 16.

3 Again, I will ask you if you  
4 recognize it?

5 A. Yes.

6 Q. Turn to page 13, please. Is that  
7 your signature, Mr. Belfonti?

8 A. It is.

9 Q. Did you sign this after reviewing all  
10 of the words that came before it?

11 A. Yes.

12 Q. At the time that you signed Exhibit  
13 16, did you believe that everything in it was  
14 true and accurate?

15 A. Yes.

16 Q. You still believe that today?

17 A. Yes.

18 Q. By the way, Mr. Friedman has been  
19 your lawyer for how many years?

20 A. Approximately 15 years.

21 Q. Do you think he's a good lawyer?

22 A. I think he's a very good lawyer.

23 Q. Do you think he's competent to  
24 understand the meaning of corporate articles of  
25 incorporation?

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1 M. Belfonti

2 A. Yes.

3 Q. Do you have any reason to doubt his  
4 ability to understand the meaning of the  
5 provisions in Exhibit 17?

6 A. No.

7 Q. In fact, if you wanted to receive  
8 advice about the meaning of any of the  
9 provisions in Exhibit 17, Mr. Friedman would be  
10 somebody who you'd be very comfortable asking,  
11 would he not?

12 A. Given the fact that Exhibit 17 comes  
13 from an Aruban company, I think if I asked  
14 Mr. Friedman if he properly understood it and he  
15 didn't, he would tell me so, and he would seek  
16 other advice to make sure he had clarity on it.

17 Q. Going back to Exhibit 16, I want you  
18 to turn to page 8, and I want to direct your  
19 attention to paragraph 44.

20 You can read the whole thing, but I'm  
21 going to direct your attention to a couple of  
22 particular passages?

23 A. May I read it first?

24 Q. Absolutely. Read as much as you need  
25 to read.

1

M. Belfonti

2

Q. Would you expect that judges in Aruba  
would want to receive witness statements that  
are accurate?

5

A. I think it is accurate.

6

Q. I will ask the question again. Who  
are the others, Mr. Belfonti?

8

A. I don't know, but the 393 came from  
Belfonti Capital Partners.

10

Q. In referring to the others, weren't  
you attempting to make it seem like people other  
than you were involved in making a supposed loan  
to AHE?

14

A. No.

15

Q. Isn't that the reason why "others" is  
in that sentence?

17

A. No.

18

Q. You say that you were, that you and,  
others and you were "forced to loan AHE  
approximately \$393,000."

21

What do you mean by  
"forced"?

23

A. I think it just means that had we not  
paid the \$393,000, we would have put the hotel  
in jeopardy.

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1 M. Belfonti

2 Q. What do you mean by "in jeopardy"?

3 A. We wouldn't have been able to pay the  
4 mortgage.

5 Q. The effect of that, again, is that  
6 you, Michael Belfonti, wouldn't own the hotel  
7 anymore; right?

8 A. That is correct.

9 Q. So you had a choice to make. You  
10 could pay, make the payment, hang onto the hotel  
11 for another month or could you not make the  
12 payment and lose the hotel; correct?

13 A. No. I had a choice to borrow money  
14 of \$393,000 to pay the mortgage or not borrow  
15 the money and not pay the mortgage.

16 Q. Other than the prospect of a loan  
17 default by AHE, was there anything else that  
18 forced you and others to make a \$393,000 loan to  
19 AHE in December of 2006?

20 A. No.

21 Q. In the next sentence you say, "In  
22 January 2007, we loaned AHE another \$1,855,861  
23 for the same purpose"; do you see that?

24 A. I do.

25 Q. Who is "we"?